

Motion to Place Senate Joint Resolution 18 on Third Reading

Senator Gonzalez moved that the Constitutional Rule and Senate Rule 32 by requiring resolutions to be read on three several days be suspended and that S. J. R. No. 18 be placed on its third reading and final passage.

The motion was lost by the following vote:

Yeas—11

Aikin	Ratliff
Dies	Reagan
Gonzalez	Rogers
Hazlewood	Schwartz
Kazen	Secrest
Owen	

Nays—17

Baker	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Parkhouse
Fuller	Patman
Hardeman	Smith
Hudson	Weinert
Krueger	Willis
Lane	

Absent

Roberts

Absent—Excused

Colson Herring

Welcome Resolutions

S. R. No. 442—By Senator Creighton: Extending welcome to students and sponsors of Pilot Point School of Denton County.

S. R. No. 443—By Senator Hudson: Extending welcome to students and teachers of Villa Maria High School of Brownsville.

S. R. No. 444—By Senator Willis: Extending welcome to Mrs. Blanche Shunkey et al. of Fort Worth.

S. R. No. 445—By Senator Moffett: Extending welcome to students and members of the Haskell High School Band.

S. R. No. 446—By Senator Moffett: Extending welcome to students and sponsor of Holliday High School.

Adjournment

On motion of Senator Lane the Senate at 12:10 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

SIXTY-SECOND DAY

(Tuesday, May 9, 1961)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present:

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis

Absent—Excused

Colson Owen
Herring

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

"Our Father, the world is overworked. We grow weary under the strain of these days. Teach us that Thou alone can supply the deepest needs of tired bodies; jaded spirits; and frayed nerves. Fix our minds on Thee; give us Thy peace, the gift of God's love. We pray in Christ's name. Amen."

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence

Senator Herring was granted leave of absence for today on account of important business on motion of Senator Krueger.

Senator Owen was granted leave of absence for today on account of important business on motion of Senator Hudson.

Senator Colson was granted leave of absence for today on account of illness in the family on motion of Senator Aikin.

Reports of Standing Committees

Senator Hardeman submitted the following report:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We your Committee on Jurisprudence, to which was referred S. C. R. No. 55, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred H. C. R. No. 21, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred H. B. No. 243, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred H. B. No. 1052, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred H. C. R. No. 85, have had the same un-

der consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred H. B. No. 498, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred H. B. No. 348, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred S. B. No. 449, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred S. B. No. 84, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass but that committee substitute adopted in lieu thereof do pass and be printed.

HARDEMAN, Chairman.

C. S. S. B. No. 84 was read the first time.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred S. B. No. 85, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass but that committee substitute adopted in lieu thereof do pass and be printed.

HARDEMAN, Chairman.

C. S. S. B. No. 85 was read the first time.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred S. B. No. 86, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass but that committee substitute adopted in lieu thereof do pass and be printed.

HARDEMAN, Chairman.

C. S. S. B. No. 86 was read the first time.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to which was referred S. B. No. 87, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass but that committee substitute adopted in lieu thereof do pass and be printed.

HARDEMAN, Chairman.

C. S. S. B. No. 87 was read the first time.

Senator Lane submitted the following reports:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 224, have had the same under consideration, and we are instructed

to report it back to the Senate with the recommendation that it do pass as amended and be printed.

LANE, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 3, have had the same under consideration, and we are instructed to report it back to the Senate with recommendation that it do not pass but that the committee substitute adopted in lieu thereof do pass and be printed.

LANE, Chairman.

C. S. H. B. No. 3 was read the first time.

Senator Krueger submitted the following report:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred H. B. No. 682, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

KRUEGER, Vice Chairman.

Senator Roberts submitted the following reports:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred H. B. No. 654, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

ROBERTS, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred H. B. No. 479, have had the same under consideration, and we are instructed to report it back to the Senate with

the recommendation that it do pass and be printed.

ROBERTS, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 445, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

ROBERTS, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred S. B. No. 79, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass, but that the committee substitute adopted in lieu thereof do pass and be printed.

ROBERTS, Chairman.

C. S. S. B. No. 79 was read the first time.

Senator Crump submitted the following reports:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred H. J. R. No. 36, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CRUMP, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred H. J. R. No. 15, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CRUMP, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred H. J. R. No. 25, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CRUMP, Chairman.

Senator Aikin submitted the following reports:

Austin, Texas,
May 8, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 609, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

Austin, Texas,
May 8, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 624, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

Austin, Texas,
May 8, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 610, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman.

Senate Bill 468 on First Reading

Senator Lane moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis

Absent—Excused

Colson	Owen
Herring	

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Lane:

S. B. No. 468, A bill to be entitled "An Act amending paragraph (c) of Article VII of the Sabine River Compact, Chapter 63, Acts of the Fifty-third Legislature, 1953, as amended by Senate Bill 139, Acts of the Fifty-seventh Legislature, 1961, Regular Session, to correct the date from June 30, 1968 to June 30, 1958; and declaring an emergency."

To the Committee on Counties, Cities and Towns.

Senate Bill 469 on First Reading

Senator Ratliff moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—28

Aikin	Hudson
Baker	Kazen
Calhoun	Krueger
Creighton	Lane
Crump	Martin
Dies	Moffett
Fuller	Moore
Gonzalez	Parkhouse
Hardeman	Patman
Hazlewood	Ratliff

Reagan	Secrest
Roberts	Smith
Rogers	Weinert
Schwartz	Willis

Absent—Excused

Colson	Owen
Herring	

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Ratliff:

S. B. No. 469, A bill to be entitled "An Act amending Article 4502 of the Revised Civil Statutes of Texas, as amended Acts 1953, 53rd Leg., p. 1029, Ch. 426, Sec. 6; making provision for the compensation of Board members, repealing all laws and parts of laws in conflict; and declaring an emergency."

To the Committee on Finance.

(Senator Martin in the Chair.)

Senate Concurrent Resolution 56

Senator Moffett offered the following resolution:

S. C. R. No. 56, Designating Texas Public Schools Week for March 5-9, 1962.

Whereas, Texas Public Schools Week, since its inauguration by the Texas Citizens Committee for Public Schools Week in 1951, has become an outstanding observance which attracts well over a million visitors to Texas schools each year; and

Whereas, Since the administration and operation of the public schools of Texas constitute a public trust which has been delegated largely to local boards of education, it is desirable that citizens who elect the local boards be well informed concerning their schools; and

Whereas, The provisions of planned opportunities for citizens to visit in the schools offers a suitable means of encouraging their participation in the continued growth and progress of education in Texas; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring That the Legislature join with the State Board of Education in urging the citizens of Texas to participate in the annual visitation programs of our public schools, and

that visitors in the schools be reminded of each citizen's obligations and responsibilities as a contributing member of a self-governing society; and, be it further

Resolved, That the week of March 5th through 9th, 1962, be hereby designated as the dates for the official Public Schools Week in Texas for the year 1962; and, be it further

Resolved, That a copy of this resolution be sent to the Commissioner of Education and to the Chairman of the Texas Citizens' Committee on Public Schools Week.

MOFFETT
MARTIN
AIKIN

The resolution was read.

On motion of Senator Moffett and by unanimous consent the resolution was considered immediately and was adopted.

Reports of Standing Committee

Senator Aikin by unanimous consent submitted the following reports:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to whom was referred S. B. No. 468, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to whom was referred H. B. No. 1085, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities, and Towns, to whom was

referred H. B. No. 626, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 1004, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Senate Bill 468 Ordered Not Printed

On motion of Senator Lane and by unanimous consent S. B. No. 468 was ordered not printed.

(President in the Chair.)

Senate Bill 470 on First Reading

Senator Schwartz moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—25

Aikin	Moffett
Baker	Moore
Calhoun	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Fuller	Roberts
Gonzalez	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis
Lane	

Nays—3

Hardeman	Weinert
Martin	

Absent—Excused

Colson	Owen
Herring	

The following bill was then introduced, read first time and referred to the committee indicated:

By Senators Schwartz and Moffett:
S. B. No. 470, A bill to be entitled
"An Act creating the Texas Consti-
tution Revision Commission; prescrib-
ing duties and powers; providing for
the mode of appointing its members;
providing for acceptance of private
grants; and declaring an emergency."

To the Committee on State Affairs.

**Senate Concurrent Resolution 57
on First Reading**

Senator Hazlewood moved that Sen-
ate Rule 114 and Section 5 of Article
III of the State Constitution be sus-
pended to permit his introducing at
this time, a resolution, the provisions
of which he explained.

The motion prevailed by the follow-
ing vote:

Yeas—28

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis

Absent—Excused

Colson	Owen
Herring	

The following resolution was then
introduced, read first time and re-
ferred to the committee indicated:

S. C. R. No. 57, Granting Harold
E. Kounovski et al. permission to sue
the State of Texas.

Whereas, Harold E. Kounovski, of
Amarillo Air Force Base, Herbert J.
Geiser, of Amarillo Air Force Base
and Joseph Homomichl, of Amarillo
Air Force Base allege that on or
about March 19, 1961, they were pro-
ceeding in a westerly direction from
Panhandle, Texas, in Carson County,
on Highway 60 in a prudent manner;
and

Whereas, At the time and place it
is alleged by them that a snow plow
owned by the State of Texas and
Texas Highway Department, ap-
proached them from the opposite di-

rection and propelled heavy quan-
tities of snow into the automobile,
breaking the windshield of the car
in which they were riding and caused
them injury and damage of a sub-
stantial nature; and

Whereas, They allege that the op-
eration of the snow plow by the em-
ployee of the State of Texas and Tex-
as Highway Department was careless
and negligent in such manner as to
render the State of Texas and Texas
Highway Department liable to them
for property damage and personal
injury, be it

Resolved, by the Senate of the State
of Texas, the House of Representa-
tives concurring, That Harold E.
Kounovski, Herbert J. Geiser, and
Joseph Homomichl be and they are
hereby given and granted permission
to sue the State of Texas in any court
of competent jurisdiction to deter-
mine whether or not the State of
Texas is liable as a result of the acci-
dent of Harold E. Kounovski, Herbert
J. Geiser and Joseph Homomichl, and
further to determine what damages,
if any, Harold E. Kounovski, Herbert
J. Geiser and Joseph Homomichl are
entitled to recover from the State of
Texas by reason of any negligent act
committed by the State of Texas; and
be it further

Resolved, That service of citation
and any other legal processes shall
be served upon both the Attorney
General and the officer in charge of
the Texas Highway Department. Such
service of process shall have the
same force and effect as the service of
process upon a defendant in any other
civil case; and be it further

Resolved, That any party to the
suit shall have the right of appeal
as is provided for in other civil
cases; and be it further

Resolved, That nothing herein shall
be construed as an admission on the
part of the State of Texas, or any
of the Departments or Agencies of the
State of Texas, or any of the politi-
cal subdivisions of the State of Tex-
as, as to the validity of any allega-
tions or claims asserted in said suits,
but that all allegations and claims
asserted in said suit must be proved
as in other suits under the same rules
of evidence and the same laws as
apply in and govern the trial of other
civil cases; and be it further

Resolved, That nothing herein shall
be construed as a waiver of any de-
fenses, of fact as well as of law, that

may be asserted by or available to the State of Texas, or any of the Departments or Agencies of the State of Texas, or any of the political subdivisions of the State of Texas, in said suit, but all such defenses are hereby specifically reserved.

To the Committee on Jurisprudence.

Senate Bill 471 on First Reading

Senator Gonzalez moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—25

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis
Lane	

Nays—1

Weinert

Absent

Hardeman Roberts

Absent—Excused

Colson Owen
Herring

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Gonzalez:

S. B. No. 471, A bill to be entitled "An Act creating an additional district court coterminous with Bexar County; providing powers, duties, jurisdiction and administration; and declaring an emergency."

To the Committee on Legislative, Congressional and Judicial Districts.

Conference Committee Report on Senate Bill 119

Senator Lane submitted the following Conference Committee Report on S. B. No. 119:

Austin, Texas,

April 24, 1961.

Honorable Ben Ramsey, President of the Senate.

Honorable James A. Turman, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S. B. No. 119, have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LANE
PARKHOUSE
HAZLEWOOD
MARTIN
DIES

On the part of the Senate.

DEWEY
JOHNSON
SPILMAN
NUGENT
HALE

On the part of the House.

S. B. 119,

A BILL TO BE ENTITLED

An Act to Make Uniform the Law of Partnership; Defining Partnership; Defining Relations of Partners to Persons Dealing With the Partnership; Defining Relations of Partners to One Another; Defining Property Rights in Partnerships (Including those of Spouses of Partners); providing for Dissolution and Winding up; Defining the Rules for Distribution of Partnership Property; Providing for Interpretation and Construction of the Act; Providing for Cases Not Provided for Herein; Providing a Severability Clause; Repealing Acts in Conflict Herewith; and Declaring an Emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

PART I PRELIMINARY PROVISIONS

Sec.

1. Name of Act.
2. Definition of Terms.
3. Interpretation of Knowledge and Notice.
4. Rules of Construction.
5. Rules for Cases Not Provided for in This Act.

Section 1. Name of Act. This Act shall be known and may be cited as the Texas Uniform Partnership Act.

Sec. 2. Definition of Terms. In this Act, "Court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.

"Person" includes individuals, partnerships, corporations, and other associations.

"Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

"Conveyance" includes every assignment, lease, mortgage, or encumbrance.

"Real Property" includes land and any interest or estate in land.

Sec. 3. Interpretation of Knowledge and Notice. (1) A person has "knowledge" of a fact within the meaning of this Act not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

(2) A person has "notice" of a fact within the meaning of this Act when the person who claims the benefit of the notice:

(a) States the fact to such person, or

(b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

Sec. 4. Rules of Construction. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this Act.

(2) The law of estoppel shall apply under this Act.

(3) The law of agency shall apply under this Act.

(4) This Act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This Act shall not be construed so as to impair the obligations of any contract existing when the Act goes into effect, nor to affect any action or proceedings begun or right accrued before this Act takes effect.

Sec. 5. Rules for Cases Not Provided for in This Act. In any case not provided for in this Act the rules of law and equity, including the law merchant, shall govern.

PART II.

NATURE OF A PARTNERSHIP

Sec.

6. Partnership Defined.

7. Rules for Determining the Existence of a Partnership.

8. Partnership Property.

Sec. 6. Partnership Defined. (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this Act, unless such association would have been a partnership in this state prior to the adoption of this Act; but this Act shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

(3) An association is not a partnership under this Act if:

(a) The word "association" or "associates" is part of and always used in the name under which it transacts business, and

(b) Its assumed name certificates, filed in accordance with law, contain a statement substantially as follows: "This association intends not to be governed by the Texas Uniform Partnership Act," and

(c) The business it transacts is wholly or partly engaging in an activity in which corporations cannot lawfully engage.

This subsection shall not be construed to change in any way the law applicable to associations which are not partnerships under this Act.

Sec. 7. Rules for Determining the Existence of a Partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by Sec. 16 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entirety, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common

right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a widow or representative of a deceased partner,

(d) As interest on a loan, though the amount of payments vary with the profits of the business,

(e) As the consideration for the sale of a good-will of a business or other property by installments or otherwise.

(5) Operation of a mineral property under a joint operating agreement does not of itself establish a partnership.

Sec. 8. Partnership Property. (1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

PART III.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

Sec.

9. Partner Agent of Partnership as to Partnership Business.

10. Conveyance of Real Property of partnership.

11. Partnership Bound by Admission of Partner.

12. Partnership Charged with Knowledge of or Notice to Partner.

13. Partnership Bound by Partner's Wrongful Act.

14. Partnership Bound by Partner's Breach of Trust.

15. Nature of Partner's Liability.

16. Partner by Estoppel.

17. Liability of Incoming Partner.

Sec. 9. Partner Agent of Partnership as to Partnership Business. (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,

(b) Dispose of the good-will of the business,

(c) Do any other act which would make it impossible to carry on the ordinary business of a partnership,

(d) Confess a judgment,

(e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

Sec. 10. Conveyance of Real Property of the Partnership. (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of paragraph (1) of Sec. 9, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a

conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of Sec. 9.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of paragraph (1) of Sec. 9, unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of Sec. 9.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

(6) Nothing in this section shall be deemed to modify the statutes of limitations of actions for lands.

Sec. 11. Partnership Bound by Admission of Partner. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as defined by this Act is evidence against the partnership.

Sec. 12. Partnership Charged with Knowledge of or Notice to Partner. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

Sec. 13. Partnership Bound by Partner's Wrongful Act. Where, by any wrongful act or omission of any partner acting in the ordinary course of

the business of the partnership or with the authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

Sec. 14. Partnership Bound by Partner's Breach of Trust. The partnership is bound to make good the loss:

(a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

Sec. 15. Nature of Partners's Liability. All partners are liable jointly and severally for all debts and obligations of the partnership including those under Secs. 13 and 14.

Sec. 16. Partner by Estoppel. (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made:

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership;

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them

to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

(3) A representation that a person is an "associate" or a "non-partner member" of a partnership is not a representation that he is a partner in the partnership.

Sec. 17. Liability of Incoming Partner. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

PART IV RELATIONS OF PARTNERS TO ONE ANOTHER

Sec.

18. Rules Determining Rights and Duties of Partners and Employees.
19. Partnership Books.
20. Duty of Partners to Render Information.
21. Partner Accountable as a Fiduciary.
22. Right to an Account.
23. Continuation of Partnership Beyond Fixed Term.

Sec. 18. Rules Determining Rights and Duties of Partners and Employees. (1) The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property, and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the

ordinary and proper conduct of its business, or for the preservation of its business or property.

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(d) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(e) All partners have equal rights in the management and conduct of the partnership business.

(f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(g) No person can become a member of a partnership without the consent of all the partners.

(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

(2) By written agreement, the partners may establish various classes of partners (such as "senior partners," "junior partners," "managing partners" and others) and may provide for their varying rights and duties in relation to the partnership.

(3) By written agreement, the partners may establish various classes of non-partner employees (such as "associates," "non-partner members" and others) and may provide for their varying rights and duties in relation to the partnership.

Sec. 19. Partnership Books. The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

Sec. 20. Duty of Partners to Render Information. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner, or partner under legal disability.

Sec. 21. Partner Accountable as a Fiduciary. (1) Every partner must

account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

Sec. 22. Right to an Account. Any partner shall have the right to a formal account as to partnership affairs:

(a) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners,

(b) If the right exists under the terms of any agreement,

(c) As provided by Sec. 21,

(d) Whenever other circumstances render it just and reasonable,

Sec. 23. Continuation of Partnership Beyond Fixed Term. (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

PART V PROPERTY RIGHTS IN PARTNERSHIP

Sec.

24. Extent of Property Rights of a Partner.

25. Nature of a Partner's Right in Specific Partnership Property.

26. Nature of Partner's Interest in the Partnership.

27. Assignment of Partner's Interest.

28. Interest in Partnership Subject to Charging Order.

28-A. Extent of Community Property Rights of a Partner's Spouse.

28-B. Effect of Death or Divorce on Interest in the Partnership.

Sec. 24. Extent of Property Rights of a Partner. The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management. The community property rights of a partner's spouse are stated in Sec. 28-A.

Sec. 25. Nature of a Partner's Right in Specific Partnership Property. (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this Act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representatives of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, courtesy, or allowances to widows, heirs, or next of kin.

Sec. 26. Nature of Partner's Interest in the Partnership. A partner's interest in the partnership is his share of the profits and surplus, and

the same is personal property for all purposes.

Sec. 27. Assignment of Partner's Interest. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs; it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled and, for any proper purpose, to require reasonable information or account of partnership transactions and to make reasonable inspection of the partnership books.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest.

Sec. 28. Interest in Partnership Subject to Charging Order. (1) On due application to a competent court by any judgment creditor of a partner (or of any other owner of an interest in the partnership), the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner (or such other owner) with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner (or such other owner) might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this Act shall be held to deprive a partner (or other owner) of his right, if any, under the exemption laws, as regards his interest in the partnership.

Sec. 28-A. Extent of Community Property Rights of a Partner's

Spouse. (1) A partner's rights in specific partnership property are not community property.

(2) A partner's interest in the partnership may be community property.

(3) A partner's right to participate in the management is not community property.

Sec. 28-B. Effect of Death or Divorce on Interest in the Partnership.

(1) (A) On the divorce of a partner, the partner's spouse shall, to the extent of such spouse's interest in the partnership, be regarded for purposes of this Act as an assignee and purchaser of such interest from such partner.

(B) On the death of a partner, such partner's surviving spouse (if any) and such partner's heirs, legatees or personal representative, shall, to the extent of their respective interests in the partnership, be regarded for purposes of this Act as assignees and purchasers of such interests from such partner.

(C) On the death of a partner's spouse, such spouse's heirs, legatees or personal representative shall, to the extent of their respective interests in the partnership, be regarded for purposes of this Act as assignees and purchasers of such interests from such partner.

(2) A partnership is not dissolved by the death of a partner's spouse unless the agreement between the partners provides otherwise.

(3) Nothing in this Act shall impair any agreement for the purchase or sale of an interest in a partnership at the death of the owner thereof or at any other time.

PART VI.

DISSOLUTION AND WINDING UP

Sec.

29. Dissolution Defined.

30. Partnership not Terminated by Dissolution.

31. Causes of Dissolution.

32. Dissolution by Decree of Court.

33. General Effect of Dissolution on Authority of Partner.

34. Right of Partner to Contribution from Co-partners after Dissolution.

35. Power of Partner to Bind Partnership to Third Persons after Dissolution.

36. Effect of Dissolution on Partner's Existing Liability.

37. Right to Wind Up.

- 38. Rights of Partners to Application of Partnership Property.
- 39. Rights Where Partnership Is Dissolved for Fraud or Misrepresentation.
- 40. Rules for Distribution.
- 41. Liability of Persons Continuing the Business in Certain Cases.
- 42. Rights of Retiring or Estate of Deceased Partner When the Business is Continued.
- 43. Accrual of Actions.

Sec. 29. Dissolution Defined. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

Sec. 30. Partnership not Terminated by Dissolution. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

Sec. 31. Causes of Dissolution. Dissolution is caused:

- (1) Without violation of the agreement between the partners,
 - (a) By the termination of the definite term or particular undertaking specified in the agreement,
 - (b) By the express will of any partner when no definite term or particular undertaking is specified,
 - (c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,
 - (d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;
- (2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;
- (3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;
- (4) By the death of any partner unless the agreement between the partners provides otherwise;
- (5) By the bankruptcy of any partner or the partnership;
- (6) By decree of court under Sec. 32.

Sec. 32. Dissolution by Decree of Court. (1) On application by or for a partner the court shall decree a dissolution whenever:

- (a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,
- (b) A partner becomes in any other way incapable of performing his part of the partnership contract.
- (c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,
- (d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,
- (e) The business of the partnership can only be carried on at a loss,
- (f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under Secs. 27 and 28:

- (a) After the termination of the specified term or particular undertaking,
- (b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Sec. 33. General Effect of Dissolution on Authority of Partner. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership,

- (1) With respect to the partners,
 - (a) When the dissolution is not by the act, bankruptcy or death of a partner; or
 - (b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where Sec. 34 so requires.

(2) With respect to persons not partners, as declared in Sec. 35.

Sec. 34. Right of Partner to Contribution from Co-partners after Dissolution. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

- (a) The dissolution being by act of

any partner, the partner acting for the partnership had knowledge of the dissolution, or

(b) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

Sec. 35. Power of Partner to Bind Partnership to Third Persons after Dissolution. (1) After dissolution a partner can bind the partnership except as provided in Paragraph (3):

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(I) Was a creditor of the partnership at the time of dissolution or had extended credit to the partnership within two years prior to dissolution and, in either case, had no knowledge or notice of his want of authority; or

(II) Though he was not such a creditor or had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) the liability of a partner under Paragraph (1b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the person with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or

(b) Where the partner has become bankrupt; or

(c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who

(I) Was a creditor of the partner-

ship at the time of dissolution or had extended credit to the partnership within two years prior to dissolution and, in either case, had no knowledge or notice of his want of authority; or

(II) Though he was not such a creditor or had not so extended credit to the partnership prior to dissolution, and having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in Paragraph (1bII).

(4) Nothing in this section shall affect the liability under Sec. 16 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

Sec. 36. Effect of Dissolution on Partner's Existing Liability (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

Sec. 37. Right to Wind Up. Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however, that any partner, his legal representative or his assignee, upon

cause shown, may obtain winding up by the court.

Sec. 38. Rights of Partners to Application of Partnership Property. (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his co-partners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under Sec. 36(2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have,

(I) All the rights specified in paragraph (1) of this section, and

(II) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2aII) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(I) If the business is not continued under the provisions of paragraph (2b) all the rights of a partner under paragraph (1), subject to clause (2aII), of this section,

(II) If the business is continued under paragraph (2b) of this section the right as against his co-

partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be indemnified against all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good-will of the business shall not be considered.

Sec. 39. Rights Where Partnership is Dissolved for Fraud or Misrepresentation. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

(a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(c) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

Sec. 40. Rules for Distribution. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are:

(I) The partnership property,

(II) The contributions of the partners necessary for the payment of all the liabilities specified in clause (b) of this paragraph.

(b) The liabilities of the partnership shall rank in order of payment, as follows:

(I) Those owing to creditors other than partners,

(II) Those owing to partners other than for capital and profits,

(III) Those owing to partners in respect of capital,

(IV) Those owing to partners in respect of profits.

(c) The assets shall be applied in the order of their declaration in clause (a) of this paragraph to the satisfaction of the liabilities.

(d) The partners shall contribute, as provided by Sec. 18(a) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause (d) of this paragraph.

(f) Any partner or his legal representative shall have the right to enforce the contributions specified in clause (d) of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.

(g) The individual property of a deceased partner shall be liable for the contributions specified in clause (d) of this paragraph.

(h) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(i) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

(I) Those owing to separate creditors,

(II) Those owing to partnership creditors,

(III) Those owing to partners by way of contribution.

Sec. 41. Liability of Persons Continuing the Business in Certain Cases. (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of

the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in paragraphs (1) and (2) of this section, with the consent of the retired partners or the representatives of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of Sec. 38(2b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued

under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the persons or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

Sec. 42. Rights of Retiring or Estate of Deceased Partner When the Business is Continued. When any partner retires or dies, and the business is continued under any of the conditions set forth in Sec. 41 (1, 2, 3, 5, 6) or Sec. 38(2b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section as provided by Sec. 41(8) of this Act.

Sec. 43. Accrual of Actions. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the

date of dissolution, in the absence of any agreement to the contrary.

PART VII.

MISCELLANEOUS PROVISIONS

Sec.

44. Severability; Effect of Partial Invalidity.

45. Effective Date.

46. Repealer.

47. Emergency.

Sec. 44. Severability; Effect of Partial Invalidity. If a court shall adjudge to be invalid or unconstitutional any provision of this Act, such judgment or decree shall not affect other provisions or applications of this Act, but the effect thereof shall be confined to the provision so adjudged to be invalid or unconstitutional. To this end, the provisions of this Act are severable.

Sec. 45. Effective Date. This Act shall take effect and be in force from and after January 1, 1962.

Sec. 46. Repealer. All Acts or parts of Acts inconsistent with this Act are hereby repealed. However nothing herein shall be deemed to repeal:

(A) Acts 1955, 54th Legislature, page 471, Chapter 133 (codified as Article 6132a, Revised Civil Statutes of Texas, 1925, the Texas Uniform Limited Partnership Act).

(B) Acts 1858, page 110; P.D. 1514; General Laws Volume 4, page 982 (codified as Article 2033, Revised Civil Statutes of Texas, 1925 and pertaining to citation upon one member of a partnership).

(C) Acts 1858, page 110, P. D. 1514; General Laws Volume 4, page 982 (codified as Article 2223, Revised Civil Statutes of Texas, 1925, and pertaining to judgment against partnership or partners).

(D) Any other provision pertaining to citation or judgment against partners or partnerships.

Sec. 47. Emergency. The total absence of Statutes governing general partnerships; the incompleteness and inconsistency and inadequacy of the common law in this field; the great number of partnership businesses operative in Texas; and the importance of this legislation, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby sus-

pending; and that this Act shall take effect and be in force from and after the effective date specified herein, and it is so enacted.

The report was read and was adopted.

Senate Resolution 451

Senator Hudson offered the following resolution:

Whereas, The twenty-four-man State Board of Teachers Examiners is not responsible to the people of the State of Texas directly; and

Whereas, The State Commissioner of Education is authorized to appoint no less than three competent teachers to this Board; and

Whereas, This Board approves any college in the State of Texas which certifies teachers and also approves the plan of each college concerning teacher educational requirements; now, therefore, be it

Resolved, By the Senate, that we specifically ask that this Board report back to the Senate at the beginning of the next Legislative session concerning efforts made to increase the quality of education in our various State teachers colleges and colleges of education, and also we specifically ask that such report give us details concerning the number of methodology and "how to teach" courses in proportion to the major courses and subjects taught in each of the State-supported institutions.

The resolution was read and was referred to the Committee on Education.

Message from the House

Hall of the House of Representatives
Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 1082, A bill to be entitled "An Act amending Section 2 of Chapter 88, General Laws of the Forty-first Legislature, Second Called Session, 1929, as amended (codified as Article 6675a-2 in Vernon's Texas Civil Statutes), by extending the exemption from registration of farm trailers and farm semi-trailers to include trailers and semi-trailers owned by cotton gins

and grain elevators and used solely for supplying, without charge, such trailers and semi-trailers to farmers to haul agricultural products from place of production to place of process, market or storage of such agricultural products; increasing the gross weight of exempt farm trailers or farm semi-trailers to ten thousand (10,000) pounds; defining the term 'gross weight' as used in said Section; providing maximum speed limits for farm trailers and farm semi-trailers; amending Subsection 3 of Section 132, Uniform Act Regulating Traffic on Highways, by exempting from the provisions of said Subsection any farm trailer or farm semi-trailer operated upon the highways whose gross weight does not exceed ten thousand (10,000) pounds and defining the term 'gross weight' as used in said Subsection; repealing conflicting laws; and declaring an emergency."

The House has adopted the Conference Committee report on Senate Bill No. 119 by a non-record vote.

H. B. No. 9, A bill to be entitled "An Act amending Sections 1 and 2 of Article IV of Senate Bill 116, Chapter 334, of the Fifty-first Legislature, Regular Session, 1949, as last amended by House Bill 8, Chapter 390, Acts of the 55th Legislature, R. S., to provide a new teacher and administrator salary schedule with increments; amending Section 1 of Article V of Senate Bill 116, supra, as amended by House Bill 376, Chapter 241, Acts of the 53rd Legislature, R. S., to provide for an increased operating cost allotment; amending Subsection (2) (a) and (b) of Section 2 of Article V of Senate Bill 116, supra, as amended by Senate Bill 102, Chapter 409, Acts of the 55th Legislature, R. S., to increase the allowable total base costs for each bus; amending Sections 1, 2 and 4, Article VI, Senate Bill 116, supra, as amended by Senate Bill 1, Chapter 5, Acts of the 53rd Legislature, first C. S., 1954, and by Senate Bill 163, Chapter 174, Acts of the 53rd Legislature, R. S., 1953 (Article 2922-16, Sections 1, 2 and 4 V.A.C.S.), to fix the amount to be charged for the 1961-62 school year against the local school districts toward the Foundation School Program and the method to determine thereafter, annually, such charge, providing a repealing and severability saving clause and declaring an emergency."

H. C. R. No. 99, Suspending the Joint Rules to permit consideration of House Bill No. 349.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bill 1085 Ordered Not Printed

On motion of Senator Moore and by unanimous consent H. B. No. 1085 was ordered not printed.

Senate Resolution 451 on
Second Reading

On motion of Senator Hudson and by unanimous consent S. R. No. 451 was withdrawn from the Committee on Education and was considered immediately and was adopted.

Record of Vote

Senator Willis asked to be recorded as voting "Nay" on the adoption of the above resolution.

Bills and Resolutions Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H. C. R. No. 27, Congratulating and inviting the Honorable Bill Daniel to speak before a Joint Session of the House and Senate at his earliest convenience.

H. C. R. No. 95, Welcoming the Junior Class of the United States Air Force Academy, the Falcon Football Team, faculty and staff members, and other friends of the Air Force Academy.

H. B. No. 259, A bill to be entitled "An Act authorizing the Chairman of the Board of Regents of the State Teachers Colleges to exchange a certain tract of State-owned land for another tract of privately-owned land of similar size; and declaring an emergency."

H. B. No. 370, A bill to be entitled "An Act providing that in all counties having a population of not less than 75,000 inhabitants nor more than 85,000 inhabitants according to the last preceding Federal census, a biennial audit shall be made of all county books, records, and accounts of district, county and precinct officials, agents or employees including all governmental units of the county, hos-

pitals, farms, and other institutions of the county and all matters pertaining to the fiscal affairs of the county; etc.; and declaring an emergency."

H. B. No. 417, To reorganize the Thirty-second and the One Hundred Fourth Judicial Districts by removing Fisher County from the One Hundred and Fourth Judicial District and adding Fisher County to the Thirty-second Judicial District and making certain other provisions relating thereto; and declaring an emergency."

H. B. No. 762, A bill to be entitled "An Act relating to the regulatory authority of the Game and Fish Commission in Comal County; amending Chapter 156, Acts of the 56th Legislature, Regular Session, 1959, to extend the duration of the Act to January 1, 1965; and declaring an emergency."

H. B. No. 893, A bill to be entitled "An Act to authorize the Lamar County Water Control and Improvement District, No. 3, to levy, assess and collect a special assessment based upon actual benefits received by land within the District arising from flood-water retarding structures and dams in the District; constructed by the District; providing maximum amount of assessment, and when assessment may not be levied: providing purposes for which moneys derived from such assessments may be used, and their accounting; providing designation of lands benefited and amount of benefits; providing assessment lists; etc.; and declaring an emergency."

H. B. No. 1069, A bill to be entitled "An Act to validate the establishment, organization and/or creation of all school districts; validating the acts of county boards of school trustees, county judges, Commissioners Courts, boards of trustees of such school districts, and municipal governing bodies; validating tax elections, bond elections, bond assumption elections, etc., and declaring an emergency."

Report of Standing Committee

Senator Rogers by unanimous consent submitted the following report:

Austin, Texas
May 9, 1961.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Educa-

tion, to whom was referred H. B. No. 616, have had the same under consideration, and we are instructed to report it back to the senate with the recommendation that it do pass, and be not printed.

ROGERS, Chairman

**Co-Authors of
Senate Joint Resolution 13**

On motion of Senator Krueger and by unanimous consent Senators Moffett, Baker and Hudson will be shown as co-authors of S. J. R. No. 13.

**Senate Joint Resolution 13
on Second Reading**

Senator Krueger asked unanimous consent to suspend the regular order of business and take up S. J. R. No. 13 for consideration at this time.

There was objection.

Senator Krueger then moved to suspend the regular order of business and take up S. J. R. No. 13 for consideration at this time.

The motion prevailed by the following vote:

Yeas—26

Aikin	Moffett
Baker	Moore
Calhoun	Parkhouse
Creighton	Patman
Crump	Ratliff
Dies	Reagan
Fuller	Roberts
Gonzalez	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis

Nays—2

Hardeman Martin

Absent—Excused

Colson Owen
Herring

The President laid before the Senate on its second reading and passage to engrossment:

S. J. R. No. 13, Proposing an amendment to Article III of the Constitution of the State of Texas by adding a new Section to be known as Section 62 and which shall empower the Legislature to provide for the temporary succession to public

offices and to adopt such other measures as may be necessary and proper for so insuring the continuity of governmental operations in periods of emergency resulting from disasters caused by enemy attack or in periods of emergency resulting from the imminent threat of such disasters; providing for the proclamation and publication of this proposed amendment by the Governor.

The resolution was read the second time.

(Pending discussion by Senator Hardeman of S. J. R. No. 13, Senator Reagan occupied the Chair.)

Question—Shall S. J. R. No. 13 be passed to engrossment?

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the committee indicated:

H. B. No. 1082, To the Committee on Counties, Cities and Towns.

Report of Standing Committee

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas
May 9, 1961

Hon. Ben Ramsey, President of the Senate:

Sir: We, your committee on Counties, Cities and Towns, to whom was referred H. B. No. 1082, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

AIKIN, Chairman

Recess

On motion of Senator Aikin the Senate at 11:57 o'clock a.m. took recess until 2:00 o'clock p.m. today.

After Recess

The President called the Senate to order at 2:00 o'clock p.m. today.

**Senate Joint Resolution 13 on
Second Reading**

The Senate resumed the consideration of the pending business same being S. J. R. No. 13 on its second

reading. (The resolution having been read the second time this morning.)

Question—Shall S. J. R. No. 13 be passed to engrossment?

(Senator Reagan in the Chair.)

Senator Aikin offered the following amendment to the resolution:

Amend S. J. R. No. 13 by striking out the following words on lines 28 and 29 page one:

"or in periods of emergency resulting from the imminent threat of such disasters."

The amendment was adopted.

Senator Aikin offered the following amendment to the resolution:

Amend S. J. R. 13 by striking out all after the word "offices" in line 34 page one and all of lines 35, 36, 37, 38, 39 and 40.

The amendment was adopted.

Senator Moffett offered the following amendment to the resolution:

Amend S. J. R. 13 by striking out the following words in lines 49 and 50 and in lines 58 and 59, page 1 of printed bill:

"or in periods of emergency resulting from the imminent threat of such disaster."

The amendment was adopted.

Senator Aikin offered the following amendment to the resolution:

Amend S. J. R. 13 by striking all of line 52 after the word "unavailable" and all of lines 53 and 54.

The amendment was adopted.

Senator Aikin offered the following amendment to the resolution:

Amend S. J. R. 13 by striking out all of line 61 after the word "available" and lines 62 and 63.

The amendment was adopted.

On motion of Senator Krueger and by unanimous consent the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to engrossment.

Record of Votes

Senators Hardeman and Willis

asked to be recorded as voting "Nay" on the passage of S. J. R. No. 13 to engrossment.

Motion to Place Senate Joint Resolution 13 on Third Reading

Senator Krueger moved that the Constitutional Rule and Senate Rule 32 requiring resolutions to be read on three several days be suspended and that S. J. R. No. 13 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the Members present):

Yeas—14

Aikin	Krueger
Baker	Moffett
Creighton	Moore
Crump	Ratliff
Dies	Reagan
Herring	Rogers
Kazen	Smith

Nays—12

Calhoun	Martin
Fuller	Parkhouse
Gonzalez	Patman
Hardeman	Schwartz
Hudson	Secrest
Lane	Willis

Absent

Hazlewood	Weinert
Roberts	

Absent—Excused

Colson	Owen
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Senate Concurrent Resolution 58

Senator Herring offered the following resolution:

S. C. R. No. 58, Granting an easement to the City of Austin for electric transmission and distribution line purposes.

Whereas, The rapid growth of north-central Austin has greatly increased the demand for electrical energy to serve residences, businesses, and state buildings, such as the Department of Public Safety Building; and

Whereas, The electrical energy requisite to supply the various above named uses is best supplied through dispersed, moderately sized transmission lines in order to decrease the possibility of total failure of electrical

service in an entire area as the result of fire, panic, or civil defense emergency; and,

Whereas, It has been determined that a 69KV electric transmission line is necessary on, along and across the eastern most boundary of that certain State-owned tract of land which lies to the east of Guadalupe Street in the City of Austin and to the south of North Loop Boulevard in the City of Austin; and,

Whereas, The State-owned lands of the Texas State Board of Hospitals and Special Schools, as well as other State-owned lands, will be benefited by the provisions for adequate electrical service which will be made possible by the construction of such 69KV electric transmission line; now, therefore, be it

Resolved, By the Senate, the House of Representatives concurring, that in consideration for the benefits which will accrue to the State of Texas by reason of the extension and development of such 69KV electric transmission line, there is hereby dedicated and granted to the City of Austin an easement for electric transmission and distribution line purposes, upon and along the following described tract of land, to-wit:

A strip of land ten (10.00) feet in width, said strip of land ten (10.00) feet in width, being out of and a part of a 40.00 acre tract of land, a 55.00 acre tract of land and a 13.00 acre tract of land, all being out of and a part of the James P. Wallace Survey No. 57 in the City of Austin, Travis County, Texas, and all having been conveyed to the State of Texas by Warranty Deed dated March 14, 1883, of record in Volume 55 at page 247 of the Deed Records of Travis County, Texas, the centerline of said strip of land ten (10.00) feet in width being more particularly described as follows:

Beginning at a point in the south line of the aforementioned 40.00 acre tract of land and from which point of beginning the southeast corner of the said 40.00 acre tract of land, same being a point in the north line of Lot 1, Block 11, Hyde Park Annex, said Hyde Park Annex being a subdivision of record in Book 2 at page 130 of the Plat Records of Travis County, Texas, same being a point in the south line of East 47th Street as shown on a map or plat of the J. J. Hegeman Addition, said J. J. Hegeman Addition being a subdivision of

record in Book 3 at page 114 of the Plat Records of Travis County, Texas, bears S 60° 00' E 5.00 feet;

Thence, with a line five (5.00) feet west of and parallel to the east line of the said State of Texas tract of land same being a line that is five (5.00) feet west of and parallel to the west line of the said J. J. Hegeman Addition, same being also a line that is five (5.00) feet west of and parallel to the west line of the Smith and Abrahamson Addition, said Smith and Abrahamson Addition being a subdivision of record in Book 4 at page 252 of the Plat Records of Travis County, Texas, to point of termination in the south line of North Loop Boulevard and from which point of termination the northwest corner of Lot 10, Block 2, of the said Smith and Abrahamson Subdivision bears S 60° 07' E 5.00 feet.

The resolution was read and was referred to the Committee on State Departments and Institutions.

Report of Standing Committee

Senator Moffett by unanimous consent submitted the following report:

Austin, Texas,
May 5, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Oil and Gas, to whom was referred H. B. No. 729, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOFFETT, Vice-Chairman.

Message from the House

Hall of the House of Representatives
Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 349, Amending Article 195 of the Revised Civil Statutes of Texas, 1925, apportioning the State of Texas into Representative Districts; naming the Counties composing each District; providing the number of Representatives to be elected in each District; providing for re-

turns of elections and issuance of certificates of election; providing for severability; repealing all laws in conflict herewith; making the Act effective for the elections for all Representatives from the places herein specified and described to the Fifty-eighth Legislature, and continuing in effect thereafter for succeeding Legislatures; providing the Act shall not affect present membership, personnel or Districts of the Fifty-seventh Legislature; and providing Special Elections for the filling of vacancies in the office of any Representative of the Fifty-seventh Legislature shall be held in the District as it now exists; and declaring an emergency.

H. C. R. No. 72, Directing the Texas Education Agency to make a study for the purpose of the establishment of standards for a higher level high school diploma and to report its findings and recommendations to the Fifty-eighth Legislature.

H. C. R. No. 80, Recommending that the Texas Education Agency make a survey to determine the practicability of the use of paperback textbooks in the public schools of Texas.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Reports of Standing Committees

Senator Calhoun by unanimous consent submitted the following report:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Departments and Institutions, to whom was referred S. C. R. No. 58, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

CALHOUN, Chairman.

Senator Aikin by unanimous consent submitted the following report:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was

referred S. B. No. 462, have had the same under consideration, and we are instructed to report it back to the Senate with the Recommendation that it do pass and be printed.

AIKIN, Chairman.

Senate Concurrent Resolution 58

Senator Herring asked unanimous consent that S. C. R. No. 58 be ordered not printed.

There was objection.

Senator Herring moved that S. C. R. No. 58 be ordered not printed.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis

Nays—1

Parkhouse

Absent—Excused

Colson

Owen

Committee Substitute Senate Joint Resolution 7 on Second Reading

On motion of Senator Willis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C. S. J. R. No. 7, Proposing an Amendment to Section 51-b of Article III of the Constitution of the State of Texas to provide that the amount paid out of State funds for assistance payments to the totally and permanently disabled may never exceed Two Million Dollars (\$2,000,000) per year.

The resolution was read second time and passed to engrossment.

Committee Substitute Senate Joint Resolution 7 on Third Reading

Senator Willis moved that the Constitutional Rule and Senate Rule 32 requiring resolutions to be read on three several days be suspended and that S. J. R. No. 7 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

Absent

Weinert

Absent—Excused

Colson Owen

The Presiding Officer then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—28

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

Absent

Weinert

Absent—Excused

Colson Owen

(President in the Chair.)

Senate Bill 318 on Second Reading

On motion of Senator Reagan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 318, A bill to be entitled "An Act to provide for more effective merger and consolidation of insurance companies, by revising and amending Articles 21.25 and 21.26, Chapter 21, of the Insurance Code (Acts of 1951, 52nd Legislature, Chapter 491), as amended, providing for the consolidation of two or more insurance companies engaged in the same line of business; to regulate the manner, procedure, and method of such consolidation, merger; repealing all conflicting laws or parts of laws to the extent of such conflict; and declaring an emergency."

The bill was read second time.

Senator Reagan offered the following Committee Amendment to the bill:

Strike out all below the enacting clause and substitute therefor the following:

Section 1. Article 21.25, Chapter 21, of the Texas Insurance Code (Acts of 1951, 52nd Legislature, Chapter 491) is amended to read as follows:

"Article 21.25. Mergers and Consolidations of Stock Insurers.

"Section 1. Any two (2) or more insurance corporations doing a similar line of business, may merge or consolidate. The procedure for; the effect of; and the rights and duties of creditors, shareholders, and the corporations involved in; such merger or consolidation shall be governed by applicable provisions of the 'Texas Business Corporation Act,' as amended, in so far as the same are not inconsistent with the provisions of this Act, and the Insurance Code of the State of Texas. That wherever in said 'Texas Business Corporation Act' some duty, responsibility, power, authority, or act is vested in, required of, or to be performed by the Secretary of State such is to be vested in, required of, or performed by the Commissioner of Insurance in so far as such act is applicable to insurance corporations under the provisions hereof.

"Section 2. Before any such proposed plan of merger or consolidation

is submitted to the shareholders for their approval, as provided under the 'Texas Business Corporation Act,' it shall first be approved by the Boards of Directors of the two or more corporations planning to merge or consolidate; and thereafter such plan shall be submitted to the shareholders of each of the corporations which are parties to the plan at separate regular or special meetings of the shareholders of the corporations, called in the manner provided by the By-Laws of the respective corporations and may be approved by the affirmative vote of the holders of two-thirds ($\frac{2}{3}$) of the shares of the capital stock of each of such corporations.

"Section 3. After such plan has been approved as provided in Section 2 hereof, it shall then be filed with the Commissioner of Insurance and approved by him in writing after a hearing thereon. The Commissioner shall hold such hearing within fifteen (15) days of filing the plan and shall then give such approval to each insurer involved within fifteen (15) days after the hearing unless he finds the plan contrary to law or that it would not be in the best interests of the policyholders affected by the plan and substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere. The Commissioner of Insurance may extend the fifteen (15) day period within which he may affirmatively approve or disapprove such plan when such action is concurred in by representatives of applicants to the merger or consolidation. In the event of disapproval of the plan, he shall specify in detail his reasons thereof. Such merger or consolidation shall not be effectuated in violation of the anti-trust and anti-monopoly laws of this State. The merger shall be effective upon the date specified in the proposed plan of merger; or where consolidation results, the new corporation shall be issued a charter and license upon submission of proper articles of incorporation to the Commissioner of Insurance, and proof that it has capital and surplus of not less than the capital and surplus of the corporation involved in such consolidation having the largest capital and surplus, and it shall be effective upon such date of issuance. A merger or consolidation involving a corporation organized under the laws of another state shall not be effective until the merger or consolidation has been ap-

proved by the proper official of the domiciliary state of the out-of-state corporation, when such approval is required under the laws of such domiciliary state.

"Section 4. All policies of insurance outstanding against any corporation so merged or consolidated shall be assumed by the new or surviving corporation on the same terms under the same conditions as if such policies had continued in force in the original corporation, and such insurer shall carry out the terms of such policy and be entitled to all the rights and privileges thereof and the reserves accumulating on such policy prior to such merger or consolidation.

"Section 5. In the event of the merger or consolidation of any two or more insurance corporations under the provisions of this Act, all investments of such corporations so absorbed, that were authorized when made by the laws of the state in which such insurance corporations were organized, as proper securities or assets, including real property, for investment of funds of an insurance corporation, and which are taken over by such new or surviving corporation by virtue of a merger or consolidation under the provisions of the Act, shall be, under the laws of this state, considered as valid securities or assets, including real property, of such new or surviving corporation by virtue of a merger or consolidation under the provisions of this Act, provided such investments are approved by the Commissioner of Insurance in this State, and the same are taken over on terms satisfactory to said Commissioner; provided, however, that in the event the new or surviving corporation acquires by virtue of such merger or consolidation real estate or property beyond or in excess of that permitted by the applicable Articles pertaining to owning or holding real estate, such new or surviving corporation shall sell and dispose of all such excess real estate within the time specified in such applicable Articles; provided that the new or surviving corporation shall not hold such property for a longer period unless it shall procure a certificate from said Commissioner that its interests will materially suffer by the forced sale thereof; in which event the time for the sale thereof may be extended to such time as the Commissioner shall direct in such certificate. Provided further, that this Section will not pre-

clude the designation and use of such acquired excess real estate as branch offices in accordance with the applicable provisions of this Code.

"Section 6. If, after any merger or consolidation is completed, the new or surviving corporation acquires its own shares as a result of distribution of shares to the shareholders of the other corporation or corporations which are being merged or consolidated, or acquires its own stock as a result of purchase of stock of the dissenting shareholders, such stock may be held as treasury stock for a period of one year, after which time such corporation shall retire and cancel such stock by proper charter amendment, if the same has not previously been reissued.

"Section 7. One insurance corporation may purchase or contract to purchase all or part of the outstanding stock of another insurance corporation; provided that the provisions contained in Section 4 of Article 3.39 of the Insurance Code which limits investments in the corporate stock of another company to not more than 10% of the purchasing company's capital, surplus and contingency funds, shall apply unless a proposed plan of merger or consolidation has been first approved by the Commissioner of Insurance in accordance with the procedure outlined in this Act and such merger or consolidation is thereafter completed within one year from the date of approval of the plan; provided that such purchase or contract to purchase be subject to the following limitations:

(a) In no event shall the amount of such purchase of stock under the plan exceed the capital and surplus of such corporation which is in excess of and is over and above its minimum capital and minimum surplus requirements.

(b) No purchase of stock above the 10% limit specified in this Section may be made until the time for effecting the merger or consolidation; nor shall any binding liability accrue on the contract to purchase such stock until the time for the effectuating the merger or consolidation.

(c) Any purchase of stock under this Section or any offer to purchase the stock under a contract, shall constitute an offer on the part of the purchasing corporation to all shareholders of the selling corporation to purchase all shares at the price paid

on any purchase or offered in any contract to purchase. The acceptance of this outstanding offer must be made at or before the time of effecting the merger or consolidation.

"Section 8. One insurance corporation may reinsure all the business of another insurance corporation, domestic or foreign, doing a similar line of business and assume all the liabilities and take over all the assets of such other corporation. All such assets shall be considered proper investments if they comply with the standards set forth in Section 5 hereof and subject to the same condition no such reinsurance agreement shall be effected unless the plan shall have been approved by the Commissioner as provided in Section 3 hereof. Affirmative approval by two-thirds (2/3) of the shareholders of the capital stock of the insurance corporations shall constitute approval where shareholder approval is required.

Section 2. Article 21.26, Chapter 21, of the Insurance Code (Acts of 1951, 52nd Legislature, Chapter 491) as amended, is hereby repealed.

Section 3. If any part, section, paragraph, sentence or clause contained in this Act or the application thereof to any person or circumstances shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act; and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity, and same are declared to be severable.

Section 4. The fact that the present laws do not clearly define the procedure for the merger or consolidation of insurance companies creates an imperative public necessity that the constitutional rule requiring bills be read on three several days in each house be suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The committee amendment was read.

Senator Hardeman offered the following amendment to the pending amendment:

Amend the amendment to S. B. 318 by adding a new section to be numbered Section 2a to read as follows:

"Section 2a. Nothing herein shall be construed as affecting, modifying,

amending or repealing in any manner the Anti-Trust Statutes of this State."

The amendment to the amendment was adopted.

The amendment as amended was then adopted.

On motion of Senator Hardeman and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 318 on Third Reading

Senator Reagan moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 318 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

Absent

Weinert

Absent—Excused

Colson

Owen

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 192 on Second Reading

Senator Schwartz asked unanimous consent to suspend the regular order of business and take up S. B. No. 192 for consideration at this time.

There was objection.

Senator Schwartz then moved to suspend the regular order of business and take up S. B. No. 192 for consideration at this time.

The motion prevailed by the following vote:

Yeas—24

Aikin	Lane
Baker	Moffett
Calhoun	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Rogers
Hazlewood	Schwartz
Hudson	Secrest
Kazen	Smith
Krueger	Willis

Nays—4

Creighton	Martin
Herring	Roberts

Absent

Weinert

Absent—Excused

Colson

Owen

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 192, A bill to be entitled "An Act to provide county wide elections in order for the majority of the electorate in certain counties to abolish the office of County Superintendent; providing if an office is abolished the County Judge shall perform the duties thereof; and declaring an emergency."

The bill was read second time.

Senator Schwartz offered the following Committee Amendment to the bill:

Amend S. B. 192 by striking out all the language following the enacting clause and substituting in lieu thereof the following:

Section 1. Upon petition of twenty per cent (20%) of the total number of qualified voters who cast a vote in the Governor's race at the preceding General Election, the County Judge shall within ninety (90) days of the receipt of such petition call an election to determine by majority vote whether the office of County Superintendent

shall be abolished. At such election all ballots shall have printed thereon the following:

"FOR the abolishment of the office of County Superintendent.

AGAINST the abolishment of the office of County Superintendent.

Sec. 2. Where the majority of the qualified electors approve the abolition of the office of County Superintendent, the duties of such abolished office as may still be required by law shall vest in the County Judge in ex officio capacity upon expiration of the current term of that office.

Sec. 3. Not more than one such election may be called during any term of office of the incumbent County Superintendent when such election was held.

Sec. 4. All laws and parts of laws in conflict herewith be, and the same are hereby repealed, and it is further enacted that if any of the provisions of this Act shall be held void or in conflict with any provisions of the Constitution of this State the fact that such provisions may be held void shall in no wise affect any other provisions of this Act.

Sec. 5. The importance of this legislation and the crowded condition of the calendar in both houses, and the necessity of amending Article 2688 R.C.S. as amended, in order to provide a more adequate means for the abolishment of the office of County School Superintendent authorized under the provisions of Article 2688 R.C.S. as amended, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Committee Amendment was read.

Senator Schwartz offered the following substitute for the pending amendment.

Amend Committee Amendment No. 1 to S. B. No. 192 by substituting the following in lieu thereof:

"Section 1. (a) Upon a petition of twenty-five per cent (25%) of the qualified voters who cast a vote in the Governor's race at the preceding General Election in counties of

less than one hundred thousand (100,000) population according to the last Federal census; or upon a petition of twenty per cent (20%) of the qualified voters who cast a vote in the Governor's race at the preceding General Election in counties of one hundred thousand (100,000) or more population according to the last Federal census, the County Judge shall within ninety (90) days of the receipt of such petition call an election to determine by majority vote whether the office of County Superintendent (or ex-officio County Superintendent and the County School Board in counties having an ex-officio County Superintendent) shall be abolished. At such an election all ballots shall have printed thereon the following:

'FOR the abolishment of the office of County Superintendent or FOR the abolishment of the office of an ex officio County Superintendent and the County School Board (as the case may be).

AGAINST the abolishment of the office of County Superintendent or AGAINST the abolishment of the office of ex officio County Superintendent and the County Board (as the case may be).'

(b) Where the majority of the qualified electors approve the abolition of the office of County Superintendent, the duties of such abolished office as may still be required by law shall vest in the County Judge in ex officio capacity upon expiration of the current term of that office.

(c) Where the majority of the qualified electors approve the abolition of the office of the ex officio County Superintendent and County School Board, the duties of such abolished offices as may still be required by law shall vest in the superintendent and Board of School Trustees of the school district within whose bounds is situated the County Seat upon the expiration of the current term of office of the ex officio County Superintendent.

Section 2. Provided that not more than one such election may be called during any term of office of the incumbent County Superintendent or ex officio County Superintendent and that not during the year that a regular election for the office is being held.

Section 3. Provided that nothing in this Act shall apply to counties of nine hundred thousand (900,000) or more where the County Superintendent and his staff are paid by the Coun-

ty; That on and after passage of this Act there shall be a county Superintendent's office in these said counties whether or not there is a common school district therein. The salaries of the County Superintendent and his employees shall be set by the school board in said county.

Section 4. All laws and parts of laws in conflict herewith be, and the same are hereby repealed, except H. B. 214, Acts of the 57th Legislature, Regular Session, and it is further enacted that if any of the provisions of this Act shall be held void or in conflict with any provisions of the Constitution of this State the fact that such provisions may be held void shall in no wise affect any other provisions of this Act.

Section 5. The importance of this legislation and the crowded condition of the calendar in both houses, and the necessity of amending Article 2688 R.C.S., as amended, in order to provide a more adequate means for the abolishment of the office of County School Superintendent authorized under the provisions of Article 2688 R.C.S., as amended, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three (3) several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The substitute for the Committee Amendment was adopted.

The Committee Amendment as substituted was then adopted.

Senator Schwartz offered the following amendment to the bill:

Amend S. B. No. 192 by striking out all above the enacting clause and substituting in lieu thereof the following:

**A BILL
TO BE ENTITLED**

"An Act providing county wide elections in order for a majority of the electorate in certain counties to abolish the office of County Superintendent, Ex Officio County Superintendent and, in certain instances, County Boards; providing for the transfer of duties of said officials; providing exceptions; providing for severability; and declaring an emergency."

The amendment was adopted.

The bill as amended was passed to engrossment.

Senate Bill 192 on Third Reading

Senator Schwartz moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 192 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Reagan
Gonzalez	Schwartz
Hardeman	Secrest
Hazlewood	Smith
Kazen	Willis
Krueger	

Nays—4

Herring	Roberts
Ratliff	Rogers

Absent

Hudson	Weinert
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Absent—Excused

Colson	Owen
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The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Roberts and Rogers asked to be recorded as voting "Nay" on the final passage of S. B. No. 192.

(Senator Martin in the Chair.)

Senate Bill 448 on Second Reading

Senator Aikin asked unanimous consent to suspend the regular order of business and take up S. B. No. 448 for consideration at this time.

There was objection.

Senator Aikin then moved to suspend the regular order of business and take up S. B. No. 448 for consideration at this time.

The motion prevailed by the following vote:

Yeas—23

Aikin	Kazen
Baker	Krueger
Calhoun	Lane
Creighton	Moffett
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Rogers
Hardeman	Schwartz
Hazlewood	Secrest
Herring	Smith
Hudson	

Nays—4

Martin	Roberts
Parkhouse	Willis

Absent

Moore	Weinert
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Absent—Excused

Colson	Owen
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The Presiding Officer laid before the Senate on its second reading and passage to engrossment:

S. B. No. 448, A bill to be entitled "An Act revising and rearranging certain statutes of this State relating to public education into a consistent whole and under a single code to be known as the Texas Public Education Code; providing a severability clause; providing a savings clause; repealing certain enumerated laws and all other laws in conflict; providing for an effective date; and declaring an emergency."

The bill was read second time.

(President in the Chair.)

Senator Aikin offered the following amendment to the bill:

Amend S. B. No. 448 by adding thereto on page 40 a second paragraph to Article 314A(1) to read as follows:

"No person hereafter shall be certified to teach in the public schools of the State of Texas until he has secured credit for the course in both Federal and State Constitutions of the grade of instruction upon which he is applying for the certificate, that is either of the subcollege or of the college work; or in lieu thereof shall have passed an examination set by the State Superintendent of Public Instruction on the Constitutions of the

United States and Texas; provided, that any person who has to his credit in any standard college or university of Texas as much as six (6) hours of American Government shall be deemed to have met the requirements of this Section. Provided further, that after September 1, 1937, no student shall be certified for graduation from any tax supported State educational institution with the award of a college degree unless such student shall have completed theretofore in a standard college or university at least six (6) hours for credit in the governments of the State of Texas or of the United States of America, or the equivalent in both; or shall have completed at least (3) hours of said credit in Government and at least three (3) hours of credit in a course in Military Science as provided in an approved senior R.O.T.C. unit."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend Senate Bill No. 448 by striking out Section 4 and substituting therefor the following:

"Section 4. Repealer.

The following statutes and laws of this State are supplanted by the provisions of this Code and are hereby repealed:

Title 49 of the Revised Civil Statutes of Texas of 1925, as amended, and all articles contained in said title, as said articles are amended, and all Acts and amendments thereto enacted since 1925 which have been compiled in Title 49, Vernon's Texas Civil Statutes 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148 and 149 of the Revised Civil Statutes of 1925; Acts 1929, 41st Legislature, p. 61, Ch. 37 (carried as Article 149a, Vernon's Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 508, Ch. 244 (carried as Article 149b, Vernon's Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 541, Ch. 264 (carried as Article 149c, Vernon's Annotated Civil Statutes); Acts 1929, 41st Legislature, p. 623, Ch. 284 (carried as Article 149d, Vernon's Annotated Civil Statutes); Acts 1935, 44th Legislature, p. 472, Ch. 190 (carried as Article 149e, Vernon's Annotated Civil Statutes); Acts 1935, 44th Legislature, p. 440, Ch. 178 (carried as Article 149f, Vernon's Annotated Civil Statutes); Acts 1937, 45th Legisla-

ture, p. 450, Ch. 227 (carried as Article 149g, Vernon's Annotated Civil Statutes); Acts 1941, 47th Legislature, p. 126, Ch. 99, Sec. 1 (carried as Article 149h, Vernon's Annotated Civil Statutes); Acts 1941, 47th Legislature, p. 1392, Ch. 630 (carried as Article 149i, Vernon's Annotated Civil Statutes); Acts 1951, 52nd Legislature, p. 808, Ch. 452 (carried as Article 149j, Vernon's Annotated Civil Statutes); Acts 1951, 52nd Legislature, p. 809, Ch. 453 (carried as Article 149k, Vernon's Annotated Civil Statutes); Acts 1957, 55th Legislature, p. 1245, Ch. 413 (carried as Article 698a-17a, Vernon's Annotated Civil Statutes); Acts 1957, 55th Legislature, p. 1243, Ch. 412 (carried as Article 689a-19a, Vernon's Annotated Civil Statutes); Article 1258, Revised Civil Statutes of 1925; Article 1259, Revised Civil Statutes of 1925; Acts 1951, 52nd Legislature, p. 841, Ch. 474 (carried as Article 2543c, Vernon's Annotated Civil Statutes); Acts 1945, 49th Legislature, p. 384, Chapter 246 (carried as Article 3192b, Vernon's Annotated Civil Statutes); Acts 1949, 51st Legislature, p. 914, Ch. 493 (carried as Article 3202-c, Vernon's Annotated Civil Statutes); Articles 3202, 3204 and 3205, Revised Civil Statutes of 1925; Acts 1949, 51st Legislature, p. 325, Ch. 158, Sec. 1 (carried as Article 3205a, Vernon's Annotated Civil Statutes); Article 3207, Revised Civil Statutes of 1925; Acts 1933, 43rd Legislature, First C. S., p. 77, Ch. 23, Sec. 1 (carried as Article 3264b, Vernon's Annotated Civil Statutes); Acts 1943, 48th Legislature, p. 208, Ch. 127 (carried as Article 3264d, Vernon's Annotated Civil Statutes); Article 3888, Revised Civil Statutes of 1925 as amended by Acts 1935, 44th Legislature, 2nd C. S., p. 1732, Ch. 447, Sec. 2; Acts 1947, 50th Legislature, p. 519, Ch. 305, Sec. 2; Acts 1951, 52nd Legislature, p. 329, Ch. 200, Sec. 1; and Acts 1953, 53rd Legislature, p. 793, Ch. 322, Sec. 1; Acts 1953, 53rd Legislature, p. 793, Ch. 322, Sec. 4 (carried as Article 3888b, Vernon's Annotated Civil Statutes); Acts 1959, 56th Legislature, p. 630, Ch. 284, Sec. 1 (carried as Article 4447b, Vernon's Annotated Civil Statutes); Article 5416, Revised Civil Statutes of Texas, as amended by Acts 1935, 44th Legislature, p. 720, Ch. 312, Sec. 2; Acts 1935, 44th Legislature, p. 378, Ch. 140, Sec. 2 (carried as Article 5416a, Vernon's An-

notated Civil Statutes); Article 5417, Revised Civil Statutes of 1925; Article 6671, Revised Civil Statutes of 1925; Acts 1947, 50th Legislature, p. 417, Ch. 239, as amended Acts 1949, 51st Legislature, p. 840, Ch. 457; Acts 1953, 53rd Legislature, p. 493, Ch. 178; Acts 1957, 55th Legislature, p. 460, Ch. 222; Acts 1959, 56th Legislature, p. 644, Ch. 297 (carried as Article 8309b, Vernon's Annotated Civil Statutes); Acts 1951, 52nd Legislature, p. 522, Ch. 310, as amended Acts 1959, 56th Legislature, p. 703, Ch. 322 (carried as Article 8309d, Vernon's Annotated Civil Statutes); Acts 1957, 55th Legislature, p. 536, Ch. 252 (carried as Article 8309f, Vernon's Annotated Civil Statutes)."

The amendment was adopted.

Senator Hudson offered the following amendment to the bill:

Amend Senate Bill 448, P. 184, Art. 20.25, A, 1, (a) by inserting after the word "State" in line 4, the following: "provided however, that an applicant, desirous of teaching in the junior or senior high schools, shall not be required to complete more than twelve (12) hours of education courses, which shall include an accredited course in practice or directed teaching, and shall have completed at least twenty-four (24) hours in a major subject and who is otherwise eligible to teach in the public free schools of this state.

"The Provisional Certificate shall be issued to each applicant who has acquired, or shall acquire, a bachelor's degree conferred by a college or university, approved for teacher education by the State Board of Education of this state, provided, however, that an applicant desirous of teaching in the elementary schools, shall not be required to complete more than twenty-four (24) hours of education courses, including an accredited course in practice or directed teaching."

The amendment was read.

Senator Aikin moved to table the amendment.

Question on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—15

Aikin

Baker

Calhoun
Creighton
Crump
Fuller
Kazen
Moffett
Patman

Ratliff
Reagan
Rogers
Secrest
Smith
Willis

Nays—10

Dies
Herring
Hudson
Krueger
Lane

Martin
Moore
Parkhouse
Roberts
Schwartz

Absent

Gonzalez
Hardeman

Hazlewood
Weinert

Absent—Excused

Colson

Owen

Senator Martin offered the following amendment to the bill:

Amend S. B. No. 448, by adding another sentence on page 394, after line 15, at the end of sub-section (b) to read as follows:

"Provided however, that this Act shall not abolish a junior college district that has notified the Texas Education Agency prior to the effective date of this Act that the district intends to be active during the next year, and such district shall be continued unless abolished by the Legislature."

The amendment was adopted.

On motion of Senator Aikin and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Record of Votes

Senators Parkhouse and Willis asked to be recorded as voting "Nay" on the passage of S. B. No. 448 to engrossment.

Senate Bill 448 on Third Reading

Senator Aikin moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 448 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

Aikin	Krueger
Baker	Lane
Calhoun	Martin
Creighton	Moffett
Crump	Moore
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Kazen	Smith

Nays—4

Hudson	Roberts
Parkhouse	Willis

Absent

Weinert

Absent—Excused

Colson

Owen

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Parkhouse and Willis asked to be recorded as voting "Nay" on the final passage of S. B. No. 448.

Reason for Vote

Senate Bill No. 448 is 455 pages long and is a complete recodification of Texas School laws. It was introduced on 19 April 1961 and I have not had an opportunity to study its effect on the schools of Tarrant County and Texas. My school people have not had an opportunity to digest and study this voluminous bill. For these reasons, I voted against Senate Bill No. 448.

WILLIS

Senate Bill 441 on Second Reading

On motion of Senator Lane and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 441, A bill to be entitled "An Act to amend Article 12 of the Election Code of the State of Texas, enacted by Chapter 492, Acts of the

52nd Legislature, Regular Session, 1951, codified as Article 2.04, Election Code, Vernon's Texas Civil Statutes, relating to the formation of election precincts by providing minimums on the number of voters in a precinct; and declaring an emergency."

The bill was read second time and passed to engrossment.

**Motion to Place
Senate Bill 441 on Third Reading**

Senator Lane moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 441 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the Members present):

Yeas—19

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Creighton	Moore
Dies	Parkhouse
Fuller	Reagan
Gonzalez	Schwartz
Hardeman	Secrest
Hazlewood	Smith
Hudson	

Nays—9

Crump	Ratliff
Herring	Roberts
Kazen	Rogers
Krueger	Willis
Patman	

Absent

Weinert

Absent—Excused

Colson

Owen

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on House

Bill No. 119 by a vote of 140 ayes, 1 no.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Bill 10 on Third Reading

Senator Roberts moved to suspend the regular order of business and take up S. B. No. 10 for consideration at this time.

The motion prevailed by the following vote:

Yeas—21

Aikin	Moffett
Baker	Moore
Calhoun	Parkhouse
Creighton	Ratliff
Dies	Reagan
Gonzalez	Roberts
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Willis
Krueger	

Nays—7

Crump	Martin
Fuller	Patman
Hardeman	Rogers
Lane	

Absent

Weinert

Absent—Excused

Colson

Owen

The President laid before the Senate on its third reading and final passage the following bill:

S. B. No. 10, A bill to be entitled "An Act amending H. B. No. 11, Acts 1959, 56th Leg., 3rd C. S., p. 187, ch. 1, codified in the General and Special Laws of Texas, 56th Legislature, and in Vernon's Civil Statutes of Texas, as Chapter 9, (Under Ch. 1) Title 122 A, relating to Taxation—General—Motor Fuel Tax, by adding a section (under Chapter 9 of Ch. 1) denominated as Section (6a) of Article 9.13 and amending Sections (13) and (14) of Article 9.25 (such articles and sections, having been utilized in such codifications, being here used for convenience) pertaining to claimed and unclaimed refunds on motor fuel revenues used for aircraft purposes, making allocation thereof, and making

other provisions relating thereto; providing for severability, for repeal of conflicting law, and declaring an emergency."

The bill was read the third time and was passed by the following vote:

Yeas—20

Aikin	Krueger
Baker	Moffett
Calhoun	Moore
Creighton	Parkhouse
Dies	Reagan
Gonzalez	Roberts
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Willis

Nays—8

Crump	Martin
Fuller	Patman
Hardeman	Ratliff
Lane	Rogers

Absent

Weinert

Absent—Excused

Colson Owen

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the Committee indicated:

H. B. No. 9, to Committee on Education.

H. B. No. 349, to Committee on Legislative, Congressional, Judicial Districts.

Reports of Standing Committee

Senator Aikin by unanimous consent submitted the following reports:

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 967, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Austin, Texas,
May 9, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 721, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

House Bill 721 Ordered Not Printed

On motion of Senator Rogers and by unanimous consent H. B. No. 721 was ordered not printed.

Senate Bill 64 on Second Reading

Senator Parkhouse asked unanimous consent to suspend the regular order of business and take up S. B. No. 64 for consideration at this time.

There was objection.

Senator Parkhouse then moved to suspend the regular order of business and take up S. B. No. 64 for consideration at this time.

The motion prevailed by the following vote:

Yeas—19

Aikin	Martin
Calhoun	Moffett
Creighton	Moore
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Hardeman	Reagan
Hazlewood	Secrest
Kazen	Smith
Lane	

Nays—7

Baker	Rogers
Gonzalez	Schwartz
Herring	Willis
Krueger	

Present—Not Voting

Hudson

Absent

Roberts	Weinert
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Absent—Excused

Colson	Owen
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The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 64, A bill to be entitled "An Act authorizing cities of 500,000 or more population according to the last preceding or any future federal census, to create a Metropolitan Transit Authority, which shall have the power and authority to acquire, own, establish and operate transit facilities; providing a short title for the Act; defining certain terms; prescribing the manner of creation of such authority; defining the powers and duties of such authority and providing for the exercise of such powers; providing that such authority shall have no power of taxation but exempting its property from taxation; providing for a savings clause; and declaring an emergency."

The bill was read second time.

Senator Parkhouse offered the following committee amendment to the bill:

Amend Senate Bill No. 64, line 2 of Section 3, by changing the figures "500,000" to "600,000."

The committee amendment was adopted.

Senator Parkhouse offered the following committee amendment to the bill:

Amend Senate Bill No. 64, line one of the caption, by changing the figures "500,000" to "600,000."

The committee amendment was adopted.

Senator Parkhouse offered the following committee amendment to the bill:

Amend Senate Bill No. 64, subsection b of Section 5, by adding another sentence at the end of this subsection to read as follows:

"The authority, when created, shall be liable for its torts the same as any private corporation."

The committee amendment was adopted.

Senator Parkhouse offered the following amendment to the bill:

Amend Section 5 of Senate Bill 64 by adding thereto a new subsection to be known as (r) to read as follows:

"(r) In the event the Authority should acquire an existing transit system in whole, or the major part thereof, it shall take over the assets and liabilities of any retirement system

that the employees of such transit system may have in existence at the time of acquisition, and administer and support the same. In addition thereto, the Board shall have the authority, in its discretion, to create and support its own retirement system for the benefit of its employees or it may enter into a contract with an insurance company or affiliate itself with any retirement system that may be operated for the benefit of public employees authorized by the State Law."

The amendment was adopted.

Senator Parkhouse offered the following amendment to the bill:

Amend Section 5 of Senate Bill 64 by adding thereto a new subsection to be known as (q) to read as follows:

"(q) In the event the Authority should acquire in whole or the major part of an existing transit system located in the principal city, then it shall take over the employees of such systems who desire employment with the Authority, and said employees shall be given recognition for their previous training and experience, in so far as is practicable. However, nothing in this section shall be construed to mean that the Authority shall be required to employ any person whose position is not carried over.

The amendment was adopted.

Senator Martin offered the following amendment to the bill:

Amend S. B. 64 by striking out the following words on page 8 line 64 and 65, "or tortious acts of the Authority, its servants, agents and employees."

The amendment was adopted.

Senator Gonzalez offered the following amendment to the bill:

Amend S. B. 64 by adding thereto the following:

Section 18a. Nothing in this act shall be construed to in any way vitiate existing contractual agreements with employees nor shall any acquisition in pursuance of this act of any transit company prevent the recognition of existing employees' rights.

The amendment was read.

Question—Shall the amendment by Senator Gonzalez to S. B. No. 64 be adopted?

Welcome Resolutions

S. R. No. 447—By Senator Crump: Extending welcome to students and teachers of Bertram Junior High School.

S. R. No. 448—By Senator Krueger for Senator Herring: Extending welcome to students and teachers of Fulmore Junior High School of Austin.

S. R. No. 449—By Senator Gonzalez Extending welcome to students, teachers and sponsors of The Sacred Heart School.

S. R. No. 450—By Senator Weinert: Extending welcome to students and teachers of San Marcos Baptist Academy of San Marcos.

S. R. No. 452—By Senator Weinert: Extending welcome to students and teachers of Goodwin Elementary School of New Braunfels of Comal County.

S. R. No. 453—By Senator Herring: Extending welcome to students and teachers of Oak Hill School of Travis County.

Adjournment

On motion of Senator Martin the Senate at 6:13 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

SIXTY-THIRD DAY

(Wednesday, May 10, 1961)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Martin
Baker	Moffett
Calhoun	Moore
Creighton	Parkhouse
Crump	Patman
Dies	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	

Absent—Excused

Colson

Owen

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

"Our Father, we have a big State, with big problems. Give us faith to believe that Thou art greater than all our problems. May we see our responsibilities as opportunities for service, and forbid that we should be little men in a big day of opportunities. For Christ's sake. Amen."

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal approved.

Leaves of Absence

Senator Colson was granted leave of absence for today on account of illness in the family on motion of Senator Aikin.

Senator Owen was granted leave of absence for today on account of important business on motion of Senator Hudson.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
May 10, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 94, Granting permission to Mr. C. Roy Davis, Mabel Lipscombe and husband, S. W. Lipscombe, Nell DeLodder and husband, George DeLodder, and Doris McLoy, a feme sole, to sue the State of Texas.

H. C. R. No. 102, Suspending the Joint Rules of the House and Senate in order to permit the House and the Senate to consider at any time H. J. R. No. 30.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Reports of Standing Committees

Senator Reagan submitted the following reports:

Austin, Texas,
May 10, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Insur-